

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

Robert M. Charles, Jr. NV State Bar No. 006593
Email: rcharles@lrlaw.com
John Hinderaker AZ State Bar No. 018024
Email: jhinderaker@lrlaw.com
Marvin Ruth NV State Bar No. 10979
Email: mruth@lrlaw.com

Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

CHAPTER 11

**STIPULATED MOTION TO ALLOW
IN PART THE PROOF OF CLAIM
FILED BY DONALD PINSKER
BASED UPON INVESTMENT IN THE
OAK SHORES II LOAN**

The USACM Liquidating Trust (the "USACM Trust"), by and through undersigned counsel, represents to the Court as follows:

1. On April 11, 2011, the USACM Trust filed its Sixth Omnibus Objection of USACM Trust to Proofs of Claim Based in Whole or in Part Upon Investment in the Oak Shores II Loan (the "Objection") [DE 8309], which included an objection to Claim No. 10725-02423 filed by Donald H. Pinsker ("Mr. Pinsker"), to the extent that claim was based on an investment in the Oak Shores II Loan (the "Claim"). The Court sustained the Objection [DE 8375], except as to Mr. Pinsker who had filed an informal response to the Objection.

2. Following a June 24, 2011 settlement conference, the USACM Trust and Mr. Pinsker settled the dispute as to the Objection and the Claim, which settlement is set forth

1 in the agreement attached hereto as **Exhibit A**. Pursuant to that settlement agreement, the
2 USACM Trust and Mr. Pinsker agreed that as to the Claim, Mr. Pinsker shall have an
3 allowed unsecured claim for his investment in the Oak Shores II Loan in the amount of
4 \$20,000, and that the balance of the Claim as it relates to the Oak Shores II Loan of
5 approximately \$120,000 shall be disallowed

6 Therefore, the USACM Trust and Mr. Pinsker, hereby stipulate:

7 (a) The settlement agreement is approved;

8 b) Claim No. 10725-02423 filed by Donald H. Pinsker in the total amount of
9 \$1,633,057.16 is allowed as an unsecured claim in the amount of \$20,000 with respect to
10 his investment in the Oak Shores II loan, and the remaining portion of the Claim regarding
11 the Oak Shores II Loan, approximately \$120,000, is disallowed;

12 (c) The USACM Liquidating Trustee is authorized to make an interim distribution
13 of 4.92% to Mr. Pinsker as his pro rata share of the funds reserved by the USACM Trust
14 from the initial creditor distribution.

15 (d) The disallowance of the balance of the Claim does not affect Mr. Pinsker's right
16 to repayment by the borrower or from the collateral securing the Oak Shores II Loan; and

17 (e) This order does not affect the Claim to the extent it is based on other loans.

18 A proposed form of order has been lodged herewith.

19 Respectfully submitted this December 29, 2011.

20 LEWIS AND ROCA LLP

21 By/s/John Hinderaker (AZ 18024)

22 Robert M. Charles, Jr., NV 6593

23 John Hinderaker, AZ 18024 (*pro hac vice*)

24 Marvin Ruth, Nevada 10979

25 3993 Howard Hughes Parkway, Suite 600

26 Las Vegas, Nevada 89169

E-mail: JHinderaker@lrlaw.com

Attorneys for the USACM Liquidating Trust

LEWIS
AND
ROCA
LLP
LAWYERS

DONALD PINSKER

Donald H. Pinsker, 12-29-2011

By /s/ Donald Pinsker

Donald Pinsker
8650 West Verde Way
Las Vegas, Nevada 89149

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26